

3738  
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BUCKET NO. PRES06-00217  
Customer No. 23990

PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of: : RONALD A. SCHACHAR  
Serial No. : 09/940,722  
Filed : August 27, 2001  
For : SCLERAL PROSTHESIS FOR TREATMENT OF  
PRESBYOPIA AND OTHER EYE DISORDERS  
Group No. : 3738  
Examiner : David H. Willse

**MAIL STOP AMENDMENT**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**LETTER TO DIRECTOR**

Through telephone conversations on February 22-23, 2005 between Ms. Terri Massengale of my office and Examiner Willse, and after subsequently checking the status of the application in PAIR, the undersigned became aware that a Notice of Informal or Non-Responsive Amendment was mailed on May 7, 2004 but never received by the undersigned.

To expedite prosecution of the subject application, Applicant is submitting herewith a Substitute Response to Restriction Requirement believed to fully and completely respond to the Restriction Requirement mailed March 15, 2004.

Applicant respectfully requests that either (1) examination of the application be resumed, or (2) a Notice of Abandonment entered so that Applicant may file an appropriate petition.

ATTORNEY DOCKET NO. PRES06-00217  
U.S. SERIAL NO. 09/940,722  
PATENT

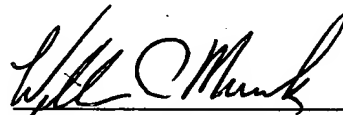
If any issue arises, or if the Examiner has any suggestions for expediting allowance of this application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at *wmunck@davismunck.com*.

The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Deposit Account No. 50-0208.

Respectfully submitted,

DAVIS MUNCK, P.C.

Date: 2/24/05

  
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Alexandria, VA 22313-1450

Sir:

**SUBSTITUTE RESPONSE TO RESTRICTION REQUIREMENT**

A Restriction Requirement was mailed in the present patent application on March 15, 2004 with time period for response ending on April 15, 2004. Applicants request withdrawal of the previously-filed response mailed April 15, 2004, and substitution of the present response therefor.

In response to the Restriction Requirement, the Applicants provisionally elect the claims of Species I, Figures 6-8, with traverse. Applicant believes that claims 1,

Claims 1 and 61-106 are pending in the present application.

The Restriction Requirement asserts that Figures 6-8, Figures 9-10, Figures 11-13, Figures 14-16a, Figure 16b, Figures 17-20, Figures 21-23 and Figures 24-27 each depict patentably distinct species of the claimed invention. However, the Restriction Requirement does not present any

reasons why such species are independent and/or distinct. A restriction requirement must state particular reasons relied on for holding that the inventions as claimed are either independent or distinct. MPEP § 816, p. 800-56 (8<sup>th</sup> ed. Rev. 3 May 2004). A mere statement of conclusion is inadequate; the reasons upon which the conclusion is based must be given. *Id.* Accordingly, the Restriction Requirement is improper and should be withdrawn.

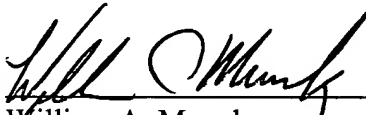
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Respectfully submitted,

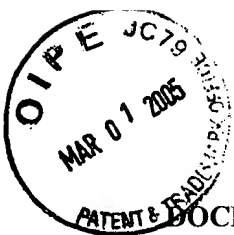
DAVIS MUNCK, P.C.

Date: 2/24/05

  
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Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**CERTIFICATE OF MAILING BY FIRST CLASS MAIL**

Sir:

The undersigned hereby certifies that the following documents:

1. Letter to Director;
2. Substitute Response to Restriction Requirement; and
3. Postcard receipt

relating to the above application, were deposited as "First Class Mail" with the United States Postal Service, addressed to Mail Stop AMENDMENT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on February 24, 2005.

Date: 2/24/05

Kathy Cedar  
Mailer

Date: 2/24/05

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